

Yavapai-Apache Nation

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VIA FACSIMILE (202) 632-7066
AND HAND DELIVERY

National Indian Gaming Commission
ATTN: General Counsel
1441 L Street NW, Suite 9100
Washington, D.C. 20005

Re: Proposed Changes to Rules Regarding Class II Gaming

Ladies and Gentlemen:

I write on behalf of the Yavapai Apache Nation, which is located in the Verde Valley area of central Arizona. We are a proud Nation, and have struggled for generations to provide the education, health and social service programs desperately needed by our tribal members. Although we have only a modest casino, our gaming revenues have literally changed the lives of our People in terms of basic jobs, education, health, and housing opportunities on our Reservation.

The Nation was saddened to learn of the proposed changes to Class II gaming put forth by NIGC. We see these changes as a fundamental departure from current law and congressional intent, and as an effort to strip Native people nationwide of the opportunity to achieve self-sufficiency and fund necessary health, education, and social service programs paid for through the revenues provided by Class II gaming.

We ask you to reconsider this radical departure from current law and congressional intent. We ask you to think of the elders and youth who need these Class II revenues to ensure a bright, healthy future. We ask you to think of the workers - Indian and non-Indian alike - who feed their families with the revenues from Class II gaming. We ask you to re-think your current efforts with the best interests of Indian people in your minds and in your hearts.

Our specific concerns are similar to the concerns of the over 90 tribes who have advised you of the many problems with the proposed rules as currently drafted. Please listen to our Indian people, as we are speaking in a united, loud voice against your proposed rule, with very reasonable concerns.

- The proposed regulations redefine established regulatory terms and limit the intentions of Congress when IGRA was adopted. Under IGRA, Congress clearly


permits the use of electronic equipment in class II games. It is clear that Congress understood that technology would advance, and that class II games would evolve through such advancement.

- The NIGC should honor the spirit and language of IGRA, the Tribes' hard-fought federal court victories, and the NIGC's own regulatory framework: including, the current definition regulations. We urge the NIGC to give these comments serious consideration and to refrain from placing unwarranted restrictions on class II gaming.
- The process under which the NIGC developed the proposed rules for Class II gaming is flawed and does not give proper discretion to Indian Tribes to regulate their gaming.
- Despite the development of the tribal advisory committee, the committee was not invited to participate in drafting proposed regulations. The rule-making process did not provide proper consultation with Indian Tribes.
- In addition, Tribal comments provided to NIGC in the course of preparing the proposed regulations were not made public, and it is unclear if any comments were considered in the development of the proposed regulations.
- The redefinition of the statutory term "game of bingo" prohibits the growth of class II gaming and micromanages tribal business judgment and regulatory responsibilities.
- The proposed classification standards on Class II gaming place restrictions on the game display, ball draw, daubing, prize amounts, and player interaction that are contrary to established case law.
- The proposed definition of "electromechanical facsimile" inappropriately categorizes bingo, lotto, and other games similar to bingo as facsimiles when played in an electronic medium. The current definition clearly and correctly states that as long as the electronic format broadens participation among players and is not played against the machine, such games are not facsimiles.
- The three requirements enacted by Congress on the game of bingo "constitute the sole legal requirements of a game to count as class II bingo." The proposed regulations would eliminate virtually all games that Congress intended to allow as "similar to bingo."
- The following proposed provisions place arbitrary restrictions on bingo and games similar to bingo and should be removed:
 1. Required use of five by five grid cards (546.4(c)).
 2. Games can only use ball draws numbered 1 through 75 (546.5(a)).

3. Elimination of “pre-drawn” balls;
4. Mandatory time periods to play of the bingo game (546.5(i)).
5. Requirements for multiple ball releases (546.6 (c)).
6. Elimination of auto-daub and requirement for two seconds of daub time before the next release is permitted (546.5(i)).

Thank you for your consideration of our point of view. We look forward to working with you on this and other issues to ensure the health and prosperity of Indian gaming for generations yet to come.

Sincerely,



Jamie Fullmer
Tribal Chairman